

HOUSE BILL NO. 203
INTRODUCED BY A. OLSON
BY REQUEST OF THE SECRETARY OF STATE

ABILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS GOVERNING BALLOT MEASURES; REVISING THE DEFINITION OF "SIGNATURE GATHERER"; CLARIFYING THAT PETITIONS FOR BALLOT MEASURES ARE TO BE CIRCULATED BY SIGNATURE GATHERERS; PROVIDING REQUIREMENTS FOR INTERNET POSTING OF PETITIONS FOR BALLOT MEASURES; REQUIRING PETITIONS FOR BALLOT MEASURES TO INCLUDE THE DATE OF BIRTH OF THE PERSON SIGNING THE PETITION; CONFORMING REQUIREMENTS FOR SIGNATURES FOR INITIATIVE MEASURES AND INITIATIVES FOR CONSTITUTIONAL AMENDMENTS TO CONSTITUTIONAL REQUIREMENTS FOR GATHERING SIGNATURES IN ONE-HALF OF THE COUNTIES; REVISING REQUIREMENTS FOR SUBMISSION OF PETITION SHEETS FOR BALLOT MEASURES FOR VERIFICATION OF SIGNATURES; REQUIRING CERTIFICATION OF SIGNATURES ON PETITIONS FOR BALLOT MEASURES BY THE SIGNATURE GATHERER; AUTHORIZING THE SECRETARY OF STATE TO REJECT PETITIONS FOR BALLOT MEASURES SUBMITTED FOR TABULATION OF SIGNATURES THAT DO NOT MEET STATUTORY REQUIREMENTS; AMENDING SECTIONS 13-27-111, 13-27-201, 13-27-202, 13-27-204, 13-27-205, 13-27-206, 13-27-207, 13-27-301, 13-27-302, 13-27-303, AND 13-27-307, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 13-27-111, MCA, is amended to read:

"13-27-111. Definitions. As used in 13-27-112, 13-27-113, and this section, unless otherwise indicated by the context, the following definitions apply:

- (1) "Commissioner" means the commissioner of political practices provided for in 13-37-101.
- (2) "Paid signature gatherer" means a signature gatherer who is compensated in money for the collection of signatures.
- (3) "Person" has the meaning provided in 13-1-101, but does not include a candidate and includes a political committee.
- (4) "Signature gatherer" means an individual who collects ~~or intends to collect~~ signatures on a petition for the purpose of an initiative, a referendum, or the calling of a constitutional convention."

Section 2. Section 13-27-201, MCA, is amended to read:

"13-27-201. Form of petition generally. (1) A petition for the initiative, for the referendum, or to call a constitutional convention must be substantially in the form provided by this chapter. Clerical or technical errors that do not interfere with the ability to judge the sufficiency of signatures on the petition do not render a petition void.

(2) Petition sheets may not exceed 8 1/2 x 14 inches in size. Separate sheets of a petition may be fastened in sections of not more than 25 sheets. Near the top of each sheet containing signature lines must be printed the title of the statute or constitutional amendment proposed or the measure to be referred or a statement that the petition is for the purpose of calling a constitutional convention. If signature lines are printed on both the front and back of a petition sheet, the information required above must appear on both the front and back of the sheet. The complete text of the measure proposed or referred must be attached to or contained within each signature sheet if sheets are circulated separately. The text of the measure must be in the bill form provided in the most recent issue of the bill drafting manual furnished by the legislative services division. If sheets are circulated in sections, the complete text of the measure must be attached to each section.

(3) An internet posting of petition language must include a statement that the petition language and format may not be modified. An internet posting must include an affidavit in substantially the same form as prescribed by the secretary of state."

Section 3. Section 13-27-202, MCA, is amended to read:

"13-27-202. Recommendations -- approval of form required. (1) Before submission of a sample sheet to the secretary of state pursuant to subsection (3), the following requirements must be fulfilled:

(a) The text of the proposed measure must be submitted to the legislative services division for review.
(b) The legislative services division staff shall review the text for clarity, consistency, and any other factors that the staff considers when drafting proposed legislation.

(c) Within 14 days after submission of the text, the legislative services division staff shall make to the person submitting the text written recommendations for changes in the text or a statement that no changes are recommended.

(d) The person submitting the text shall consider the recommendations and respond in writing to the legislative services division, accepting, rejecting, or modifying each of the recommended changes. If no changes are recommended, no response is required.

(2) The legislative services division shall furnish a copy of the correspondence provided for in subsection

(1) to the secretary of state, who shall make a copy of the correspondence available to any person upon request.

(3) Before a petition may be circulated for signatures, a sample sheet containing the text of the proposed measure must be submitted to the secretary of state in the form in which it will be circulated. The sample petition may not be submitted to the secretary of state more than 1 year prior to the final date for filing the signed petition with the county election administrator. The secretary of state shall refer a copy of the petition sheet to the attorney general for approval. The secretary of state and attorney general shall each review the petition for sufficiency as to form and approve or reject the form of the petition, stating the reasons for rejection, if any. The attorney general shall also review the petition as to its legal sufficiency. If the attorney general determines that the petition is legally deficient, the attorney general shall notify the secretary of state of that fact and provide a copy of the determination to the secretary of state and to the petitioner within the time provided in 13-27-312(8). The petition may not be given final approval by the secretary of state unless the attorney general's determination is overruled pursuant to 13-27-316. As used in this section, "legal sufficiency" means that the petition complies with the statutory prerequisites to submission of the proposed measure to the electors and that the text of the proposed measure complies with constitutional requirements governing submission of ballot measures to the electorate. Review of a petition for legal sufficiency does not include consideration of the merits or application of the measure if adopted by the voters. The secretary of state or the attorney general may not reject the petition solely because the text contains material not submitted to the legislative services division unless the material not submitted to the legislative services division is a substantive change not suggested by the legislative services division.

(4) (a) The secretary of state shall review the comments and statements of the attorney general received pursuant to 13-27-312 and make a final decision as to the approval or rejection of the petition.

(b) The secretary of state shall send written notice to the person who submitted the petition sheet of the approval or rejection of the form of the petition within 28 days after submission of the petition sheet.

(c) If an action is filed challenging the validity of the petition, the secretary of state shall immediately notify the person who submitted the petition sheet.

(5) A petition with technical defects in form may be approved with the condition that those defects will be corrected before the petition is circulated for signatures.

(6) The secretary of state shall upon request provide the person submitting the petition with a sample petition form, including the text of the proposed measure, the statement of purpose, and the statements of implications, all as approved by the secretary of state and the attorney general. The petition may be circulated by a signature gatherer in the form of the sample prepared by the secretary of state. The petition may be circulated by a signature gatherer upon approval of the form of the petition by the secretary of state and the

attorney general pending a final determination of its legal sufficiency."

Section 4. Section 13-27-204, MCA, is amended to read:

"13-27-204. Petition for initiative. (1) The following is substantially the form for a petition calling for a vote to enact a law by initiative:

PETITION TO PLACE INITIATIVE NO. _____
ON THE ELECTION BALLOT

(a) If 5% of the voters in each of ~~34 legislative representative districts~~ 28 counties sign this petition and the total number of voters signing this petition is, this measure will appear on the next general election ballot. If a majority of voters vote for this measure at that election, it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following measure on the, 20..., general election ballot:

(Title of measure written pursuant to 13-27-312) (Statement of implication written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the measure, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the measure on the ballot and does not necessarily mean the signer agrees with the measure.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, residence address, ~~legislative representative district number~~ county of residence, and printed last name of the signer, and the signer's date of birth. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 5. Section 13-27-205, MCA, is amended to read:

"13-27-205. Petition for the referendum. (1) The following is substantially the form for a petition calling for approval or rejection of an act of the legislature by the referendum:

PETITION TO PLACE REFERENDUM NO. ____ ON THE ELECTION BALLOT

(a) If 5% of the voters in each of 34 legislative representative districts sign this petition and the total number of voters signing the petition is, Senate (House) Bill Number will appear on the next general election ballot. If a majority of voters vote for this measure at that election it will become law.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following Senate (House) Bill Number, passed by the legislature on on the next general election ballot:

(Title of referendum written pursuant to 13-27-312) (Statement of implication written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the measure, which appears (on the reverse side of, attached to, etc., as applicable) on this sheet. A signature on this petition is only to put the measure on the ballot and does not necessarily mean the signer agrees with the measure.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition or who signs more than once for the same issue at one election or signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person must sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registry card, or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, residence address, legislative representative district number, and printed last name of the signer, and the signer's date of birth. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 6. Section 13-27-206, MCA, is amended to read:

"13-27-206. Petition for initiative for constitutional convention. (1) The following is substantially the form for a petition to direct the secretary of state to submit to the qualified voters the question of whether there will be a constitutional convention:

PETITION TO PLACE INITIATIVE NO. _____, CALLING FOR A CONSTITUTIONAL CONVENTION, ON THE

ELECTION BALLOT

(a) If 10% of the voters in each of 40 legislative districts sign this petition and the total number of voters signing this petition is, the question of whether to have a constitutional convention will appear on the next general election ballot. If a majority of voters vote for the constitutional convention, the legislature shall call for a constitutional convention at its next session.

(b) We, the undersigned Montana voters, propose that the secretary of state place the question of whether to hold a constitutional convention on the, 20..., general election ballot:

(Title of the initiative written pursuant to 13-27-312) (Statement of implication written pursuant to 13-27-312)

(c) A signature on this petition is only to put the call for a constitutional convention on the ballot and does not necessarily mean the signer is in favor of calling a constitutional convention.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a \$500 fine or 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must also contain spaces for the signature, residence address, legislative representative district number, ~~and~~ printed last name of the signer, and the signer's date of birth. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 7. Section 13-27-207, MCA, is amended to read:

"13-27-207. Petition for initiative for constitutional amendment. (1) The following is substantially the form for a petition for an initiative to amend the constitution:

PETITION TO PLACE CONSTITUTIONAL AMENDMENT NO. ____ ON THE ELECTION BALLOT

(a) If 10% of the voters in each of ~~40 legislative districts~~ 28 counties sign this petition and the total number of voters signing the petition is, this constitutional amendment will appear on the next general election ballot. If a majority of voters vote for this amendment at that election, it will become part of the constitution.

(b) We, the undersigned Montana voters, propose that the secretary of state place the following constitutional amendment on the, 20..., general election ballot:

(Title of the proposed constitutional amendment written pursuant to 13-27-312)

(Statement of implication written pursuant to 13-27-312)

(c) Voters are urged to read the complete text of the measure, which appears (on the reverse side of, attached to, etc., as applicable) this sheet. A signature on this petition is only to put the constitutional amendment on the ballot and does not necessarily mean the signer agrees with the amendment.

(d)

WARNING

A person who purposefully signs a name other than the person's own to this petition, who signs more than once for the same issue at one election, or who signs when not a legally registered Montana voter is subject to a \$500 fine, 6 months in jail, or both.

(e) Each person is required to sign the person's name and list the person's address or telephone number in substantially the same manner as on the person's voter registration card or the signature will not be counted.

(2) Numbered lines must follow the heading. Each numbered line must contain spaces for the signature, residence address, ~~legislative representative district number~~ county of residence, and printed last name of the signer, and the signer's date of birth. In place of a residence address, the signer may provide the signer's post-office address or the signer's home telephone number. An address provided on a petition by the signer that differs from the signer's address as shown on the signer's voter registration card may not be used as the only means to disqualify the signature of that petition signer."

Section 8. Section 13-27-301, MCA, is amended to read:

"13-27-301. Submission of petition sheets -- withdrawal of signatures. (1) Signed sheets or sections of petitions ~~shall~~ with original signatures must be submitted to the official responsible for registration of electors in the county in which the signatures were obtained no sooner than 9 months and no later than 4 weeks before the final date for filing the petition with the secretary of state.

(2) If it is impractical to submit signed sheets or sections of petitions with original signatures by the deadline provided in subsection (1), a copy or facsimile may be submitted to the proper county official by the deadline. Signed sheets or sections of petitions with original signatures must be submitted within 7 calendar days after the deadline. Failure to submit signed sheets or sections of petitions with original signatures within 7 calendar days will invalidate the signed sheets or sections submitted by copy or facsimile.

~~(2)~~(3) Signatures may be withdrawn from a petition for constitutional amendment, constitutional convention, initiative, or referendum up to the time of final submission of petition sheets as provided in subsection (1). The secretary of state shall prescribe the form to be used by an elector desiring to have ~~his~~ the elector's signature withdrawn from a petition."

Section 9. Section 13-27-302, MCA, is amended to read:

"13-27-302. Certification of signatures. An affidavit, in substantially the following form, must be attached to each sheet or section submitted to the county official:

I, (name of person who ~~circulated this petition~~ is the signature gatherer), swear that I ~~circulated~~ gathered or assisted in ~~circulating~~ gathering the signatures on the petition to which this affidavit is attached on the stated dates, that I believe the signatures on the petition are genuine, are the signatures of the persons whose names they purport to be, and are the signatures of Montana electors who are registered at the address or have the telephone number following the person's signature, and that the signers knew the contents of the petition before signing the petition.

.....
(dates on which signatures gathered)

.....
(Signature of petition ~~circulator~~ signature gatherer)

.....
(Address of petition ~~circulator~~ signature gatherer)

Subscribed and sworn to before me this ... day of, 20...

Seal

.....
(Person authorized to take oaths)

.....
(Title or notarial information)"

Section 10. Section 13-27-303, MCA, is amended to read:

"13-27-303. Verification of signatures by county official -- allocating voters following reapportionment -- duplicate signatures. (1) Except as required by 13-27-104, within 4 weeks after receiving the sheets or sections of a petition, the county official shall check the names of all signers to verify they are registered electors of the county. In addition, the official shall randomly select signatures on each sheet or section

and compare them with the signatures of the electors as they appear in the registration records of the office. If all the randomly selected signatures appear to be genuine, the number of signatures of registered electors on the sheet or section may be certified to the secretary of state without further comparison of signatures. If any of the randomly selected signatures do not appear to be genuine, all signatures on that sheet or section must be compared with the signatures in the registration records of the office.

(2) For the purpose of allocating the signatures of voters among the several legislative representative districts of the state as required to certify a petition for a ~~ballot issue~~ referendum or a call of a constitutional convention under the provisions of this chapter following the filing of a districting and apportionment plan under 5-1-111 and before the first gubernatorial election following the filing of the plan, the new districts must be used with the number of signatures needed for each legislative representative district being the total votes cast for governor in the last gubernatorial election divided by the number of legislative representative districts.

(3) Upon discovery of fraudulent signatures or duplicate signatures of an elector on any one issue, the election administrator may submit the name of the elector or the petition circulator, or both, to the county attorney to be investigated under the provisions of 13-27-106 and 13-35-207."

Section 11. Section 13-27-307, MCA, is amended to read:

"13-27-307. Consideration and tabulation of signatures by secretary of state. (1) The secretary of state shall consider and tabulate only the signatures on petitions that are certified by the proper county official; ~~and each certificate is prima facie evidence of the facts stated in the certificate.~~ The secretary of state may reject any petition that does not meet statutory requirements. The secretary of state shall return a rejected petition to the proper county official. The county official shall correct the error, when applicable, or send or deliver the rejected petition to the signature gatherer. ~~However, the~~ The secretary of state may consider and tabulate any signature not certified by the county official that is certified by a notary public of the county in which the signer resides to be the genuine signature of an elector legally qualified to sign the petition.

(2) The official certificate of the notary public for any signature not certified as valid by the county official must be in substantially the following form:

State of Montana)

)ss.

County of.....)

I, (name), a ~~duty~~ qualified and acting notary public in and for the above-named county and state, certify that I am personally acquainted with all of the following-named electors whose signatures are affixed to

the attached (petition) (copy of a petition) and I know that they are registered electors of the state of Montana and of the county ~~and~~ or legislative district written after their names in the petition and that their post-office addresses are correctly stated in the petition.

.....(Names of electors)

In testimony whereof, I have set my hand and official seal this.... day of....., 20...

.....(Signature)

Seal

.....(Notarial information)"

NEW SECTION. **Section 12. Effective date.** [This act] is effective July 1, 2003.

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